

# HB2930



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB2930

by Rep. Michael Unes

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/3

from Ch. 116, par. 203

5 ILCS 140/9

from Ch. 116, par. 209

Amends the Freedom of Information Act. Authorizes and, in some circumstances requires, a public body to respond by electronic mail to requests for public records that it has received by electronic mail.

LRB098 10035 JDS 40194 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by  
5 changing Sections 3 and 9 as follows:

6 (5 ILCS 140/3) (from Ch. 116, par. 203)

7 Sec. 3. (a) Each public body shall make available to any  
8 person for inspection or copying all public records, except as  
9 otherwise provided in Section 7 of this Act. Notwithstanding  
10 any other law, a public body may not grant to any person or  
11 entity, whether by contract, license, or otherwise, the  
12 exclusive right to access and disseminate any public record as  
13 defined in this Act.

14 (b) Subject to the fee provisions of Section 6 of this Act,  
15 each public body shall promptly provide, to any person who  
16 submits a request, a copy of any public record required to be  
17 disclosed by subsection (a) of this Section and shall certify  
18 such copy if so requested.

19 (c) Requests for inspection or copies shall be made in  
20 writing and directed to the public body. Written requests may  
21 be submitted to a public body via personal delivery, mail,  
22 telefax, or other means available to the public body. A public  
23 body may honor oral requests for inspection or copying. A

1 public body may not require that a request be submitted on a  
2 standard form or require the requester to specify the purpose  
3 for a request, except to determine whether the records are  
4 requested for a commercial purpose or whether to grant a  
5 request for a fee waiver. All requests for inspection and  
6 copying received by a public body shall immediately be  
7 forwarded to its Freedom of Information officer or designee.

8 (d) Each public body shall, promptly, either comply with or  
9 deny a request for public records within 5 business days after  
10 its receipt of the request, unless the time for response is  
11 properly extended under subsection (e) of this Section. A  
12 public body may comply with or deny a request for public  
13 records by electronic mail if the request was submitted by  
14 electronic mail. Denial shall be sent pursuant to ~~in writing as~~  
15 ~~provided in~~ Section 9 of this Act. Failure to comply with a  
16 written request, extend the time for response, or deny a  
17 request within 5 business days after its receipt shall be  
18 considered a denial of the request. A public body that fails to  
19 respond to a request within the requisite periods in this  
20 Section but thereafter provides the requester with copies of  
21 the requested public records may not impose a fee for such  
22 copies. A public body that fails to respond to a request  
23 received may not treat the request as unduly burdensome under  
24 subsection (g).

25 (e) The time for response under this Section may be  
26 extended by the public body for not more than 5 business days

1 from the original due date for any of the following reasons:

2 (i) the requested records are stored in whole or in  
3 part at other locations than the office having charge of  
4 the requested records;

5 (ii) the request requires the collection of a  
6 substantial number of specified records;

7 (iii) the request is couched in categorical terms and  
8 requires an extensive search for the records responsive to  
9 it;

10 (iv) the requested records have not been located in the  
11 course of routine search and additional efforts are being  
12 made to locate them;

13 (v) the requested records require examination and  
14 evaluation by personnel having the necessary competence  
15 and discretion to determine if they are exempt from  
16 disclosure under Section 7 of this Act or should be  
17 revealed only with appropriate deletions;

18 (vi) the request for records cannot be complied with by  
19 the public body within the time limits prescribed by  
20 paragraph (c) of this Section without unduly burdening or  
21 interfering with the operations of the public body;

22 (vii) there is a need for consultation, which shall be  
23 conducted with all practicable speed, with another public  
24 body or among two or more components of a public body  
25 having a substantial interest in the determination or in  
26 the subject matter of the request.

1           The person making a request and the public body may agree  
2 in writing or, if the request was made by electronic mail, by  
3 electronic mail to extend the time for compliance for a period  
4 to be determined by the parties. If the requester and the  
5 public body agree to extend the period for compliance, a  
6 failure by the public body to comply with any previous  
7 deadlines shall not be treated as a denial of the request for  
8 the records.

9           (f) When additional time is required for any of the above  
10 reasons, the public body shall, within 5 business days after  
11 receipt of the request, notify the person making the request of  
12 the reasons for the extension and the date by which the  
13 response will be forthcoming. Failure to respond within the  
14 time permitted for extension shall be considered a denial of  
15 the request. A public body that fails to respond to a request  
16 within the time permitted for extension but thereafter provides  
17 the requester with copies of the requested public records may  
18 not impose a fee for those copies. A public body that requests  
19 an extension and subsequently fails to respond to the request  
20 may not treat the request as unduly burdensome under subsection  
21 (g).

22           (g) Requests calling for all records falling within a  
23 category shall be complied with unless compliance with the  
24 request would be unduly burdensome for the complying public  
25 body and there is no way to narrow the request and the burden  
26 on the public body outweighs the public interest in the

1 information. Before invoking this exemption, the public body  
2 shall extend to the person making the request an opportunity to  
3 confer with it in an attempt to reduce the request to  
4 manageable proportions. If any body responds to a categorical  
5 request by stating that compliance would unduly burden its  
6 operation and the conditions described above are met, it shall  
7 do so in writing or, if the request was made by electronic  
8 mail, by electronic mail, specifying the reasons why it would  
9 be unduly burdensome and the extent to which compliance will so  
10 burden the operations of the public body. Such a response shall  
11 be treated as a denial of the request for information.

12 Repeated requests from the same person for the same records  
13 that are unchanged or identical to records previously provided  
14 or properly denied under this Act shall be deemed unduly  
15 burdensome under this provision.

16 (h) Each public body may promulgate rules and regulations  
17 in conformity with the provisions of this Section pertaining to  
18 the availability of records and procedures to be followed,  
19 including:

20 (i) the times and places where such records will be  
21 made available, and

22 (ii) the persons from whom such records may be  
23 obtained.

24 (i) The time periods for compliance or denial of a request  
25 to inspect or copy records set out in this Section shall not  
26 apply to requests for records made for a commercial purpose.

1 Such requests shall be subject to the provisions of Section 3.1  
2 of this Act.

3 (Source: P.A. 96-542, eff. 1-1-10.)

4 (5 ILCS 140/9) (from Ch. 116, par. 209)

5 Sec. 9. (a) Each public body denying a request for public  
6 records shall notify the requester in writing or, if the  
7 request was made by electronic mail, by electronic mail of the  
8 decision to deny the request, the reasons for the denial,  
9 including a detailed factual basis for the application of any  
10 exemption claimed, and the names and titles or positions of  
11 each person responsible for the denial. Each notice of denial  
12 by a public body shall also inform such person of the right to  
13 review by the Public Access Counselor and provide the address  
14 and phone number for the Public Access Counselor. Each notice  
15 of denial shall inform such person of his right to judicial  
16 review under Section 11 of this Act.

17 (b) When a request for public records is denied on the  
18 grounds that the records are exempt under Section 7 of this  
19 Act, the notice of denial shall specify the exemption claimed  
20 to authorize the denial and the specific reasons for the  
21 denial, including a detailed factual basis and a citation to  
22 supporting legal authority. Copies of all notices of denial  
23 shall be retained by each public body in a single central  
24 office file that is open to the public and indexed according to  
25 the type of exemption asserted and, to the extent feasible,

1 according to the types of records requested.

2 (c) Any person making a request for public records shall be  
3 deemed to have exhausted his or her administrative remedies  
4 with respect to that request if the public body fails to act  
5 within the time periods provided in Section 3 of this Act.

6 (Source: P.A. 96-542, eff. 1-1-10.)